

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

**THE PICOWER PARTIES' EX PARTE APPLICATION TO FILE UNDER SEAL
THEIR MOTION TO REDACT LIMITED PORTIONS OF THE TRANSCRIPT OF THE
DEPOSITION OF BERNARD L. MADOFF TAKEN ON DECEMBER 20, 2016 AND THE
DECLARATION OF MARCY RESSLER HARRIS IN SUPPORT THEREOF**

Pursuant to the Honorable Stuart M. Bernstein's Rule on Sealing Orders, the Picower Parties¹ submit this *ex parte* application to file under seal their Motion to Redact Limited Portions of the Transcript of the Deposition of Bernard L. Madoff Taken on December 20, 2016 (the "Motion to Redact") and the Declaration of Marcy Ressler Harris in support thereof (the "Harris Declaration").

In the Motion to Redact, the Picower Parties seek narrowly tailored redactions of the transcript of the deposition of Bernard L. Madoff taken on December 20, 2016 (the "Day 1 Transcript"). Pursuant to this Court's Order Authorizing the Deposition of Bernard L. Madoff (the "Madoff Deposition Order") (ECF No. 14213), as modified by the Order Authorizing the

¹ The "Picower Parties" refers to Capital Growth Company, Decisions Incorporated, Favorite Funds, JA Primary Limited Partnership, JA Special Limited Partnership, JAB Partnership, JEMW Partnership, JF Partnership, JFM Investment Companies, JLN Partnership, JMP Limited Partnership, Jeffry M. Picower Special Company, Jeffry M. Picower, P.C., The Picower Foundation, The Picower Institute of Medical Research, The Trust f/b/o Gabrielle H. Picower, Barbara Picower, individually, and as Executor of the Estate of Jeffry M. Picower, and as Trustee for the Picower Foundation and for the Trust f/b/o Gabrielle H. Picower.

Continued Deposition of Bernard L. Madoff (ECF No. 14905), the Day 1 Transcript is confidential until the day after a final, non-appealable order is entered on the Picower Parties' Motion to Redact.

The Motion to Redact includes excerpts of the Day 1 Transcript, which are confidential pursuant to the Madoff Deposition Order. Moreover, the Harris Declaration attaches as exhibits (i) the unredacted Day 1 Transcript; (ii) the Day 1 Transcript with the Picower Parties' proposed redactions; and (iii) a chart listing the portions of the Day 1 Transcript that the Picower Parties seek to redact, all of which are confidential under the Madoff Deposition Order. Accordingly, the Picower Parties hereby request that the Motion to Redact and the Harris Declaration in support thereof be filed under seal to maintain the confidentiality of the Day 1 Transcript, as required by the Madoff Deposition Order.

In accordance with this Court's Rule on Sealing Orders, the Picower Parties will submit redacted versions of the Motion to Redact and the Harris Declaration for public filing.

WHEREFORE, the Picower Parties respectfully request that the Court enter the Proposed Order submitted herewith authorizing that the Motion to Redact and the Harris Declaration be filed under seal and directing that the redacted versions of each be publicly filed on the docket.

Dated: New York, New York
February 2, 2017

SCHULTE ROTH & ZABEL LLP

By: /s/ Marcy Ressler Harris

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